



Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2015-0428; FRL- 9932-61-Region 8]

Air Plan Approval; WY; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the Wyoming State Implementation Plan (SIP). The Regulations affected by this update have been previously submitted by the Wyoming Department of Environmental Quality and approved by the EPA. In this action, the EPA is also notifying the public of corrections to typographical errors and minor formatting changes to the IBR tables. This update affects the SIP materials that are available for public inspection at the EPA Regional Office.

DATES: This action is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket Identification Number EPA-R08-OAR-2015-0428. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available

docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 8, Office of Partnership and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202-1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. An electronic copy of the State's SIP compilation is also available at <http://www.epa.gov/region8/air/sip.html>.

FOR FURTHER INFORMATION CONTACT: Kathy Ayala, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6142, ayala.kathy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which a state revises as necessary to address its unique air pollution problems. Therefore, the EPA, from time to time, must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), the EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultation between the EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of Plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On November 2, 2006 (71 FR 64460) the EPA published the revised format of the IBR material for Wyoming as of August 31, 2006. Today's action is an update to the November 2, 2006 document.

II. EPA Action

In this action, the EPA is announcing the update to the IBR material as of September 1,

2015. The EPA is also correcting typographical errors, including omission and other minor errors in subsection 52.2620, paragraphs (c), (d), and (e).

III. Good Cause Exemption

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon a finding of "good cause" authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's action simply updates the codification of provisions which are already in effect as a matter of law.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Likewise, there is no purpose served by delaying the effective date of this action.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wyoming regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a

"significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **Supplementary Information** section, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order

12898 (59 FR 7629, February 16, 1994). This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the state's rules.

B. Submission to Congress and the Comptroller General

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This action simply codifies provisions which are already in effect as a matter of law in federal and approved state programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding and established an effective date of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This change to the identification of plan for Wyoming is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking

actions for each individual component of the Wyoming SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this "Identification of plan" update action for Wyoming.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 21, 2015.

Shaun L. McGrath,
Regional Administrator,
Region 8.

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart ZZ – Wyoming

2. In § 52.2620 paragraphs (b), (c), (d) and (e) are revised to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to September 1, 2015, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after September 1, 2015, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 8 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of September 1, 2015.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region 8 Office, Office of Partnerships and Regulatory Assistance (OPRA), Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202-1129 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

(c) *EPA-approved regulations.*

Rule number	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
Chapter 01. Common Provisions.					
Section 02.	Authority.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 03.	Definitions.	2/14/2013	12/23/2013	78 FR 69998, 11/22/13	
Section 04.	Diluting and concealing emissions.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 05.	Unavoidable equipment malfunction.	1/30/2006	6/15/2010	75 FR 19886, 4/16/10	
Section 06.	Credible Evidence.	12/8/2000	6/15/2010	75 FR 19886, 4/16/10	
Section 07.	Greenhouse gasses.	2/14/2013	12/23/2013	78 FR 69998, 11/22/13	
Chapter 02. Ambient Standards.					
Section 02.	Ambient standards for particulate matter.	9/7/2010	10/27/2014	79 FR 50840, 8/26/14	
Section 03.	Ambient standards for nitrogen oxides.	12/19/2012	11/14/2014	79 FR 54910, 9/15/14	
Section 04.	Ambient standards for sulfur oxides.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 05.	Ambient standards for carbon monoxide.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 06.	Ambient standards for ozone.	12/19/2012	11/14/2014	79 FR 54910, 9/15/14	

Section 08.	Ambient standards for suspended sulfates.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 10.	Ambient standards for lead.	9/7/2010	10/27/2014	79 FR 50840, 8/26/14	
Section 12.	Incorporation by reference.	12/19/2012	11/14/2014	79 FR 54910, 9/15/14	
Chapter 03. General Emission Standards.					
Section 02.	Emission standards for particulate matter.	11/22/2013	11/20/2014	79 FR 62859, 10/21/14	
Section 03.	Emission standards for nitrogen oxides.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 04.	Emission standards for sulfur oxides.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 05.	Emission standards for carbon monoxide.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 06.	Emission standards for volatile organic compounds.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 09.	Incorporation by reference.	11/22/2013	3/23/2015	80 FR 9194, 2/20/15	
Chapter 04. State Performance Standards for Specific Existing Sources.					
Section 02.	Existing sulfuric acid production units.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 03.	Existing nitric acid manufacturing plants.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Chapter 06. Permitting Requirements.					
Section 02.	Permit requirements for construction, modification, and	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	

	operation.				
Section 04.	Prevention of significant deterioration.	3/28/2012	1/6/2014	78 FR 73445, 12/06/13	
Section 14.	Incorporation by reference.	3/28/2012	1/6/2014	78 FR 73445, 12/06/13	
Chapter 07. Monitoring Regulations.					
Section 02.	Continuous monitoring requirements for existing sources.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Chapter 08. Non-attainment Area Regulations.					
Section 02.	Sweetwater County particulate matter regulations.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 03.	Conformity of general federal actions to state implementation plans.	12/19/2012	9/16/2013	78 FR 49685, 8/15/13	
Section 05.	Incorporation by reference.	12/19/2012	9/16/2013	78 FR 49685, 8/15/13	
Chapter 09. Visibility Impairment/PM Fine Control.					
Section 02.	Visibility.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Chapter 10. Smoke Management.					
Section 02.	Open burning restrictions.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 03.	Wood waste burners.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Section 04.	Smoke management requirements.	4/5/2005	1/11/2013	77 FR 73926, 12/12/12	

Chapter 12. Emergency Controls.					
Section 02.	Air pollution emergency episodes.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Chapter 13. Mobile Sources.					
Section 02.	Motor vehicle pollution control.	10/29/1999	8/27/2004	69 FR 44965, 7/28/04	
Chapter 14. Emission Trading Program Regulations.					
Section 2.	Western backstop sulfur dioxide trading program.	5/7/2008	1/11/2013	77 FR 73926, 12/12/12	
Section 3.	Sulfur dioxide milestone inventory.	5/7/2008	1/11/2013	77 FR 73926, 12/12/12	
App A.	Web Chapter 14, Section 2 Monitoring Protocols.	5/7/2008	1/11/2013	77 FR 73926, 12/12/12	

(d) *EPA-approved source specific requirements.*

Regulation	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
Black Hills Power and Light	Order containing schedule for compliance, interim requirements, and monitoring and reporting requirements.	4/25/1979	8/1/1979	44 FR 38473, 7/2/79	
FMC Corporation	Order containing schedule for compliance, interim requirements, and monitoring and reporting requirements.	4/25/1979	8/1/1979	44 FR 38473, 7/2/79	

(e) *EPA-approved nonregulatory provisions.*

Rule number	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
(01) I.	Introduction.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	
(02) II.	Legal Authority.	2/19/1976	9/30/1976	41 FR 36652, 8/31/76	
(03) III.	Control Strategy.	8/30/1984	11/11/1984	49 FR 39843, 10/11/84	
(04) IV.	Compliance Schedule.	5/29/1973	8/2/1974	39 FR 24504, 7/03/74	
(05) V.	Emergency Episode Plan.	8/26/1981	4/12/1982	47 FR 5892, 2/09/82	
(06) VI.	Air Quality Surveillance.	12/13/1988	9/9/1989	55 FR 28197, 7/10/89	
(07) VII.	Review of New Sources and Modifications.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	
(08) VIII.	Source Surveillance.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	
(09) IX.	Resources.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	
(10) X.	Intergovernmental Cooperation.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	
(11) XI.	Reports and Revisions.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	

(12) XII.	Visibility Protection Class I.	9/6/1988	3/17/1989	54 FR 6912, 2/15/89	
(13) XIII.	Sweetwater PM10 Attainment Plan.	1/25/1979	8/1/1979	44 FR 38473, 7/02/79	
(14) XIV.	Stack Height Good Engineering Practice.	12/9/1988	4/16/1989	54 FR 11186, 3/17/89	
(15) XV.	Small Business Assistance Program.	11/30/1993	8/19/1994	59 FR 31548, 6/20/94	
(16) XVI.	City of Sheridan - PM10 Air Quality Control and Maintenance Plan.	10/30/1990	7/25/1994	59 FR 32360, 6/23/94	
(17) XVII.	PSD Implementation for NOx.	11/20/1990	6/23/1991	56 FR 23811, 5/24/91	
(18) XVIII.	Interstate Transport, Wyoming Interstate Transport SIP satisfying the requirement of Section 110(a)(2)(D)(i) of the CAA for the 1997 8-hour ozone and PM2.5 standards.	4/15/2007	7/7/2008	73 FR 26019, 5/08/08	
(19) XIX.	Powder River Basin PM10 Memorandum of Agreement.	12/22/1993	10/11/1995	60 FR 47290, 9/12/95	
(20) XX.	Addressing Regional Haze Visibility Protection For The Mandatory Federal Class I Areas Required Under 40 CFR 51.309.	1/7/2011	1/11/2013	77 FR 73926, 12/12/12	
(21) XXI.	Infrastructure SIP for Section 110(a)(2) - 1997 PM2.5 NAAQS.	3/26/2008	12/6/2013	78 FR 73445, 12/06/13	

(22) XXII.	Infrastructure SIP for Section 110(a)(2) - 2006 PM2.5 NAAQS.	8/19/2011	9/9/2015	80 FR 47857, 8/10/2015	
(23) XXIII.	Infrastructure SIP for Section 110(a)(2) - 1997 Ozone NAAQS	12/10/2009	8/24/2011	76 FR 44265, 7/25/11	
(24) XXIV.	Air Quality Control Regions and Emissions Inventory.	1/22/1972	6/30/1972	37 FR 10842, 5/31/72	
(25) XXV.	Wyoming State Implementation Plan for Regional Haze for 309(g).	1/12/2011	3/3/2014	79 FR 5032, 1/30/14	Excluding portions of the following: Chapters 6.4, 6.5.7, 6.5.8, and 7.5. EPA disapproved (1) the NOx BART determinations for (a) Laramie River Units 1-3, (b) Dave Johnston Unit 3, and (c) Wyodak Unit 1; (2) the State's monitoring, recordkeeping, and reporting requirements for BART units; and (3) the State's reasonable progress goals.

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